REMARKS

Applicants have amended the claims to address the claim informalities and 35 U.S.C. § 112, ¶ 2 rejection raised by the Examiner on page 2 of the office action.

Claim 45 has been amended to specify that the matrix includes a layer including a mixture of a water-insoluble polymer, a water-soluble polymer, and a water-leachable colorant. Support for "layer" can be found, for example, on page 17, line 2 of the specification. New claim 51 states that the layer includes over 50% of the water-insoluble polymer by weight. Support for claim 51 can be found, for example, on page 17, lines 2 and 3 of the specification.

Claims 45-50 were rejected under 35 U.S.C. § 102(b) as being anticipated by Barclay et al., U.S. Pat. 5,021,053 ("Barclay"). According to the Examiner, Barclay describes an osmotic delivery device including an outer layer containing a water-insoluble polymer (polystyrene) and an inner layer including a water-soluble polymer and a drug that qualifies as a water-leachable colorant. Applicants do not understand why the Examiner believes components in two distinct layers qualify as "a mixture" as required by claims 45-50 before the present amendment. But in any event, applicants have amended claim 45 to specify that a layer includes the mixture of the three components. The osmotic delivery device disclosed by Barclay does not include a layer including a mixture of the three components. Applicants therefore request that the 35 U.S.C. § 102(b) rejection be withdrawn.

Claims 45-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Tseng, U.S. Pat. 5,349,750 ("Tseng") in view of Barclay. Tseng describes a shaving aid composite that includes a water-insoluble polymer, polyethylene oxide (a water-soluble polymer), and a "color dye". The shaving aid composite is used on a razor. During shaving, the polyethylene oxide is released from the composite and functions as a shaving aid that lubricates the face and facilitates shaving. The Examiner contends that the only difference between Tseng and claims 45-50 is that Tseng does not teach making his shaving aid composite translucent. Specifically, the Examiner states:

> The primary reference [Tseng] differs from the instant claims insofar as it does not specifically disclose a shaving system which is sufficiently translucent to

> permit observation of diminishment in color as the dyed polyethyeneoxide shaving aid, color dye and antimicrobial agent leach out upon exposure to water. (Although the primary reference does not specify what type of "color dye" is used therein, one can reasonably infer that this dye must be water soluble, since it is incorporated into a water soluble component).

However, claims 45-50 do not require a "translucent" matrix. Moreover, although the Examiner assumes that the color dye in Tseng is "incorporated into" the water-soluble component (the polyethylene oxide), this assumption is incorrect. The dye in Tseng is part of the overall blend used to make the shaving aid matrix. See Example 1 in col. 4 of Tseng.

The difference between claims 45-50 and the composite in Tseng is that Tseng does not disclose or suggest that the "color dye" should be water-leachable. In fact, Tseng suggests the opposite. Tseng teaches that the shaving aid (the polyethylene oxide) is water-soluble so that it is released during shaving. The dye is present to provide the desired cosmetic appearance to the composite. Tseng does not teach that the cosmetic appearance should change over time or that there is any other reason to have the colorant leach away from the composite during shaving. If Tseng believed that it would be desirable to use a water-leachable dye he would have said so.

The Examiner further contends that it would have been obvious to apply the teachings of Barclay to the shaving aid composite of Tseng:

> It is generally know, however, to monitor release of an active agent from a matrix by providing a contrast between the fixed and mobile components of a matrix delivery device, selecting materials sufficiently translucent to permit such observation, as taught by the secondary reference [Barclay]. See the passage spanning col. 7, line 52 to col. 8, line 25, and col. 15, lines 59-62. It would have been obvious, therefore, to have manufactured the support structures of the shaving systems of the primary reference from ethylene vinyl acetate polymer materials having sufficient translucence to permit observation of the dyed polyethylenoxide shaving aid contained therein, motivated by the desire to permit monitoring of shaving aid release in order to permit the user to determine when to dispose of the shaving system due to exhaustion of the shaving aid.

But this contention is pure hindsight. Tseng does not teach or otherwise suggest the desirability of monitoring the release of polyethylene oxide from his composite, and Barclay is concerned with monitoring the release of a drug from an osmotic delivery device that is inserted into a mouth. A person of ordinary skill in the shaving art, if designing a shaving aid composite that

releases polyethylene oxide during shaving, would not look to osmotic delivery devices designed for releasing a drug in the mouth for guidance. The Examiner is reminded that knowledge of a claimed invention should not be used as a roadmap for picking and choosing components from disparate prior art to construct a 35 U.S.C. § 103(a) rejection. As the Court of Appeals for the Federal Circuit explained in W.L. Gore & Associates v. Garlock, Inc., 220, U.S.P.Q. 303, 312-13 (1983):

> To imbue one of ordinary skill in the art with knowledge of the invention...when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.

Applicants therefore request that the 35 U.S.C. § 103(a) rejection of claims 45-50 based on Tseng and Barclay be withdrawn.

Claims 45-50 also were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rogers et al., U.S. Pat. 5,113,585 ("Rogers") in view of Barclay. Rogers describes the same general type of shaving aid composite as Tseng. The 35 U.S.C. § 103(a) rejection based on Rogers and Barclay should be withdrawn for the same reasons that the 35 U.S.C. § 103(a) rejection based on Tseng and Barclay should be withdrawn.

Claims 45-50 also were rejected for obviousness-type double patenting over claims 8-10, 12, and 13 in Tseng et al., U.S. Pat. 5,998,431 over claims 1-10, 12-22, and 24 over Tseng et al., U.S. Pat. 5,906,834. An appropriate terminal disclaimer is enclosed and applicants request that these rejections be withdrawn.

Applicants submit that the claims are in condition for allowance and such action is requested.

Enclosed is a $450.00 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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